

Amendment No. 1 to SB2198

**Cooper
Signature of Sponsor**

AMEND Senate Bill No. 2198

House Bill No. 2182*

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

by deleting all of the language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 13, Chapter 24, Part 3, is amended by adding the following new sections:

Section 13-24-304.

A municipal, county or regional planning commission or any municipal or county legislative body, hereinafter referred to as an authority, that has adopted planning and zoning regulations may plan for and regulate the siting of wireless telecommunications support structures in accordance with locally adopted planning or zoning regulations and this chapter.

Section 13-24-305.

(a) In regulating the placement of a wireless telecommunications support structure, an authority may not:

(1)

(A) Charge a consulting fee of more than one thousand five hundred dollars (\$1,500) for processing an application to construct a wireless telecommunications support structure that does not require lighting under the rules of the Federal Aviation Administration;

(B) Charge a consulting fee, which is not reasonably related to the cost incurred for processing an application to construct a wireless telecommunications support structure that does require lighting under the rules of the Federal Aviation Administration;

(C) Provided, however, any building permit fee for a wireless telecommunications support structure shall be calculated as such fee is calculated for other construction projects; or

(2) Regulate the placement of an antenna or related equipment for an existing wireless telecommunications support structure; provided, however, if the placement of an antenna on an existing wireless telecommunications support structure requires an extension, such placement may be regulated if such extension would require the wireless telecommunications support structure to have lighting. If a co-location occurs, such co-location may not be considered an expansion, and the appropriate authority may not impose additional costs or operating restrictions on the applicant for such co-location; or

(3) Require the applicant to provide any sort of justification for radio frequency need; or

(4) Act to prohibit or have the effect of prohibiting the provision of personal wireless services.

(b)

(1) In determining whether a consulting fee is reasonably related to the cost incurred, an authority may consider but shall not be limited to the following factors:

(A) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the consulting services properly;

(B) The fee customarily charged for similar consulting services;

(C) The amount involved; and

(D) The experience, reputation in the locality, and ability of the consultant performing the services.

(2) The burden of proof for justification that the amount of the consulting fee is reasonably related to the cost incurred shall be on the authority, and the reasonableness of the consulting fee shall be shown by a preponderance of the evidence. If a court finds that an authority has acted unreasonably in imposing the fee authorized by subdivision (a)(1)(A) or (B), the court may, in its discretion, assess all reasonable costs involved, including reasonable attorney fees, against the authority.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.